

AGENDA MEMO

CITY COUNCIL MEETING DATE: JANUARY 17, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-16181 - APPLICANT/OWNER: YIN YAN & PETER CHUNG

**** CONDITIONS ****

The Planning Commission (5-0 vote) and staff recommend DENIAL.

Planning and Development

1. Conformance to the conditions for Rezoning (ZON-16179), Variance (VAR-17191), and Site Development Plan Review (SDR-16180) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application serves to request a Variance to allow a trash enclosure to be located six feet from a residential property where 50 feet is required and to allow a residential adjacency setback of 56.25 feet where 77.25 feet is required, as well as a 15-foot front yard setback where 20 feet is required, and a 15-foot rear yard setback where 20 feet is required on 0.26 acres at 5104 Mountain View Drive. Companion applications include ZON-16179, VAR-17191, and SDR-16180.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/21/06	The Planning Commission recommended denial of companion items ZON-16179, VAR-17191 and SDR-16180 concurrently with this application. The Planning Commission voted 5-0 to recommend DENIAL (PC Agenda Item #14/rl).

<i>Pre-Application Meeting</i>	
08/04/06	At a Pre-application meeting, the applicant was informed that the proposed office development will require a Rezoning, a Site Development Plan Review, and a Variance for residential adjacency for a trash enclosure.
<i>Neighborhood Meeting</i>	
	A Neighborhood Meeting is not required for this application, nor was one held.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.26

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Duplex	SC (Service Commercial)	R-3 (Medium Density Residential)
North	Office	SC (Service Commercial)	SC (Service Commercial)
South	Office	SC (Service Commercial)	C-1 (Limited Commercial)
East	Service Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
West	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts	X		Y
A-O Airport Overlay District – 200 Foot Buffer	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	NA	0.26 Acres	Y
Min. Lot Width	100 Square Feet	87.77 Square Feet	N*
Min. Setbacks			
• Front	20 Feet	15 Feet	N
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	NA	NA
• Rear	20 Feet	15 Feet	N
Max. Lot Coverage	50%	27%	Y
Max. Building Height	2 Stories	1 Story and 25.75	Y
Trash Enclosure	50 Feet	6 Feet	N
Mech. Equipment	Screened	Yes	Y
<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	77.25 Feet	56.25 Feet	N
Adjacent development matching setback	15 Feet	15 Feet	Y
Trash Enclosure	50 Feet	6 Feet	N

* Addressed in companion Variance (VAR-17191)

<i>Existing Zoning</i>	<i>Permitted Density</i>	<i>Units Allowed</i>	<i>Proposed Zoning</i>	<i>Permitted Density</i>	<i>General Plan</i>	<i>Permitted Density</i>
R-3 (Medium Density Residential)	13-25 2 du on subject site	6 du/acre 2 du on subject site	C-1 (Limited Commercial)	0	SC (Service Commercial)	0

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Parking Area	1 Tree/6 Spaces	1 Tree	1 Tree	Y
Buffer: Min. Trees	1 Tree/20 Linear Feet	17 Trees	14 Trees	N**
TOTAL		18 Trees	15 Trees	N**
Min. Zone Width				
• East	15 Feet		5 Feet	N**
• Others	8 Feet		5 Feet	N**
Wall Height	6-8 Feet		Not Shown	

** Requested Waivers in companion Site Development Plan Review (SDR-16180)

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Office	3,000 SF	1/300 SF	9	1	9	1	Y
TOTAL			10		10		Y

ANALYSIS

This variance has been requested because the front of the subject proposal does not meet several setback requirements. This development does not meet the 20-foot front yard setback requirement. The building is proposed to be located 15 feet from the front property line. Additionally, this development does not meet the residential adjacency and the rear yard setback requirements. The site elevations depict a 3:1 proximity slope setback of 56.25 feet where 77.25 feet is required, and the site plan shows a trash enclosure setback of six feet where 50 feet is required. The 25.75-foot overall building height, including the parapet requires a variance from residential adjacency setback requirements. Had the design incorporated a building height, including the parapet of 19 feet or less, no variance for residential adjacency would be needed. Additionally, the large size of the building prevents the trash enclosure from meeting the required residential adjacency requirement. Finally, because of the angled rear property line, the rear yard setback is as few as 15 feet near the northwest corner of the property where 20 feet is required. A companion Variance (VAR-17191) seeks to allow the C-1 (Limited Commercial) zoning on a site with a minimum width of 87 feet where 100 feet is required.

The subject proposal does not meet current Title 19 standards for landscaping. There is no parking area landscaping provided where two trees are required. Further, there is no buffer along the south property line in order to meet parking and access requirements.

While the subject site is undoubtedly restricted by an unusual shape and a sewer easement running along the southern edge of the property, the deviation from standards is considered a self-imposed hardship. The applicant is choosing to deviate from standards by requesting a zoning district which requires a wider lot where the alternative P-R (Professional Office and Parking) zoning district requires only a minimum lot width of 60 feet, exceeded by the subject site. Due to their design choice in utilizing a 25-foot high building, including the parapet, on a single-story structure and building a 3,000 square-foot office building, the applicant is proposing to overbuild the site.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

While this parcel is of an irregular shape and is further encroached by a sewer easement along the south property line, no evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship simply by proposing to overbuild on this site. A slightly smaller office building would allow conformance to the Title 19 setback, trash enclosure, parking and setback requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 3

SENATE DISTRICT 11

NOTICES MAILED 220 by City Clerk

APPROVALS 0

PROTESTS 0